

A Regular Meeting of the Marilla Town Board was held July 14, 2005 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Absent: Warren Handley, Councilman

Supervisor Foss called the meeting to order and the Pledge of Allegiance to the Flag was given.

Communications

Communications were received and read from:

- a. The Marilla Carnival Committee thanked the Town for their help and support for this year's Carnival.
- b. Kodiak McJacks, Inc, located at 3483 Two Rod Road informed the Town that they are applying for their New York State Liquor License.
- c. The Estate of Myron Darbee donated \$12,500 for playground equipment at the Town Park and benches and tables at the Memorial Pavilion.
- d. The Marilla Sesquicentennial Time Capsule Committee explaining the location and arrangements concerning the time capsule to be opened 2054.

Committee Reports

Councilman Gertz reported for Highway Superintendent Dave Pierce that roadsides have been mowed for the second time. A new roof has been installed on the dog shelter. Winchester, Westview and Woodbrook have all been repaved. The new playground equipment has been installed at the Town Park

Councilman Spanitz reported that the Marilla Library was picked as one of the 17 featured in an article in the Buffalo news this Sunday, when the photographer came out to take pictures for the article there was a program going at which about 90 people were participating in. The Photographer was quite impressed. The Planning Board will meet next Thursday. July 21st at 7:00 p.m.

Supervisor Foss reported for Councilman Handley who had an emergency that he has been working on the PACE Program and we will hopefully be closing on a couple of properties.

Councilman Specht reported that the installation of the two new computers, one in the Assessors Office and one in the Justice Court's is complete. We have also purchased a printer for the Town Clerk's Office. Last Saturday's Bike for Ben event was a great success. We will be having the car show on July 31st and Two Rod from Bullis Road to East Avenue will be closed from about 8:00 a.m. to 4:00 p.m.

Supervisor Foss reported that based on the most recent cash flow reports I have done the Town is still in good financial shape. We have added to the budget the roof on the Community Center and the Town Hall but our current reserves will cover this cost and leave sufficient reserves for any other emergencies. Recently he had heard talk of too much growth in Marilla. In this weeks Elma Review there is an article about the population count in Marilla showing a loss of 2 for the estimated 2004 census. There also shows a net loss of 21 from the 2000 census. Those persons claiming Lancaster type growth in Marilla should take note of this article with the truth being we have controlled growth in Marilla. He suspects it is only campaign material and nothing about reality. Reality is with zero growth we will almost certainly have to raise taxes to support services. Sales tax revenue and mortgage tax revenue are our two biggest sources of funds and both are dependent on some growth. He believes our current ordinances control growth very well and still keep our revenue equaling or exceeding our expenditures. We do not want to get into a situation like the County of Erie.

Budget time is fast approaching and he will be starting the process at the end of this month. This years budget could be very different with all the problems the County is having. Their regionalism policies have failed partly due to poor leadership and partly

Open Board Presentations From the Public

Old Business

New Business

Councilman Gertz – Aye
Supervisor Foss - Aye

This Resolution shall take effect immediately.

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Gertz – Aye

Councilman Specht – Aye

Supervisor Foss - Aye

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Gertz to authorize the Supervisor to pay A-1 Construction & Painting, located at 299 Kenmore Ave., Tonawanda, NY 14223 \$31,250 as per contract for the Community Center Roof upon approval from Nussbaumer & Clarke, Inc. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to authorize approval of change orders for replacement of plywood on various sections of the roof at the Community Center Roof at a cost of \$2,088. Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to authorize the Town Attorney Nathan Neill and the Town Supervisor John Foss to attend the GFOA Conference to be held in Lockport, NY. Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Specht to approve the contract with Code Publishers to do an in-depth analysis of the current code book, they will produce an electronic version as well as a new hard cover copy without duplication and easier indexing at a cost of \$12,330. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to approve the following resolution:

WHEREAS, the Town of Marilla is desirous of limiting its civil liability in the case of an employees being injured or involved in an accident on the job;

WHEREAS, the Town of Marilla is desirous of preserving and protecting the health and welfare of its employees injured or involved in an accident on the job;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. All Town of Marilla employees who are injured and/or involved in an accident in the course of their employment with the Town are required to go to a hospital for evaluation and treatment when their immediate Supervisor requests that the employee go to the hospital for evaluation and treatment.
2. This Resolution shall take effect immediately.
3. The Town Clerk is directed to forward a copy of this Resolution to all Supervisors employed by the Town of Marilla.

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Gertz – Aye

Councilman Specht – Aye

Supervisor Foss - Aye

Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Specht to set the date for the Public Hearing on the establishment of extension No. 1 to Water District No. 3 for August 11th at 7:30 p.m. as follows:

WHEREAS, the Town Board of the Town of Marilla (herein called the "Town Board" and "Town", respectively), in the County of Erie, New York, has received a petition, dated July, 2005, pursuant to Section 191 of the Town Law, for the Establishment of Extension No. 1 to the Water District No. 3 of the Town of Marilla, (hereinafter called the "District")

which petition was signed by the owners of taxable real property situated in the proposed extension, owning 100% of the taxable real property within the proposed extension including the signatures of resident owners owning 100% of the taxable real property owned by resident owners, as shown upon the latest completed assessment-roll of said Town, and was accompanied by a map, plan and report, dated July, 2005, prepared by Nussbaumer & Clarke, Inc., engineers duly licensed by the State of New York, for the extension of such water district to provide water service to the existing homeowners within the proposed extension as part of the district instead of as out of district customers of Water District No. 3, with no new water lines to be constructed because the existing water lines of Water District No. 3 already service the properties, which map, plan and report have been duly filed in the office of the Town Clerk of the Town for public inspection; and

WHEREAS, the Town Board has given due consideration to the impact that the establishment of the Extension may have on the environment and, on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by the establishment of such Extension; and

WHEREAS, the Town Board and the Town have complied in every respect with all applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law and, in connection therewith, a duly executed Environmental Assessment Form has been filed in the office of the Town Clerk; and

WHEREAS, the Town Board has determined to proceed with the proposed Extension with no new water lines to be constructed; and

WHEREAS, said petition described the boundaries of the proposed Extension in a manner sufficient to identify the lands included therein as in a deed of conveyance and was signed by the petitioner and acknowledged or proved in the same manner as a deed to be recorded; and

WHEREAS, the proposed Extension is bounded and described as follows:

(INSERT DESCRIPTION OF EXTENSION)

ALL THAT PLOT OF LAND situated in the Town of Marilla, County of Erie and State of New York, being parts of Lots Numbers one hundred thirty-four (134) and one hundred thirty-five (135), Township ten (10), Range five (5) of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at a point in the center line of Four Rod Road at its intersection with the south line of lands conveyed to Timothy Ferrill by deed recorded in Liber 65 of Deeds a page 96 in the Erie County Clerk's Office; running thence westerly along the south line of said Ferrill's lands, two thousand five hundred ninety-three (2593) feet to a point in the west line of said Lot Number one hundred thirty-four (134); thence southerly along the west line of said Lots Numbers one hundred thirty-four (134) and one hundred thirty-five (135), five hundred twenty-seven and four tenths (527.4) feet to a point; thence easterly at an interior angle of 92° 02', seven hundred ninety and sixty-one hundredths (790.61) feet to the southwest corner of lands conveyed to John J. Bobeck by deed recorded in the Erie County Clerk's Office in Liber 10064 of Deeds at page 326; thence northerly at an interior angle of 88° 13' 40" and along the west line of lands of said Bobeck and said line continuing northerly, three hundred seventy-seven and four tenths (377.4) feet to a point; thence easterly at an exterior angle of 88° 13' 40", one thousand eight hundred (1800) feet to a point in the center line of Four Rod Road; thence northerly along the center line of said road, said line also being the easterly line of Lot Number one hundred thirty-four (134), one hundred fifty (150) feet to the point or place of beginning, containing fifteen and seven hundred sixty-two thousandths (15.762) acres more or less.

AND

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Marilla, County of Erie, and State of New York, being part of Lot No.

one hundred thirty-four (134), Township ten (10), Range five (5) of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at a point in the center line of Four Rod Road, said center line also being the east line of Lot No. one hundred thirty-four (134), distant thirty-six and sixty-three hundredths (36.63) feet north of the south line of Lot No. one hundred thirty-four (134), said point of beginning also being three hundred twenty-five (325) feet south from the southeast corner of lands conveyed to Timothy Ferrill by deed recorded in the Erie County Clerk's Office in Liber 65 of Deeds at page 96; thence northerly along the center line of Four Rod Road, a distance of one hundred seventy-five (175) feet; thence westerly at an interior angle of $91^{\circ} 46' 20''$, a distance of one thousand eight hundred (1800) feet; thence southerly at an interior angle of $88^{\circ} 13' 40''$ a distance of one hundred seventy-five (175) feet to the northwest corner of lands conveyed to John J. Bobeck by deed recorded in the Erie County Clerk's Office in Liber 10064 of Deeds at page 326; thence easterly at an interior angle of $91^{\circ} 46' 20''$ and along the north line of lands conveyed to said Bobeck, one thousand eight hundred (1800) feet to the point or place of beginning.

ALL THAT CERTAIN PIECE OR PARCEL OF LAND situate in the Town of Marilla, County of Erie and State of New York, known and distinguished as the north part of Lot Number Ninety-Nine (99) and Township Number (10) and in the Fifth (5) Range of Townships, being a part of a tract of land called the Buffalo Creek Reservation. Bounded and described as follows; Commencing at the northwest corner of said Lot No. 99; thence easterly forty chains and thirty-two links (40.32) along the line of lots between said Lot No. 99 and Lot No. 100 and to the northeast corner of said Lot No. 99; Thence south along the east line of said Lot No. 99 thirteen chains and ninety-eight links (13.98); thence westerly forty chains and ten and one half links (40.105) to a point on the west line of said lot thirteen chains and eighty-eight links (13.88) south from the northwest corner of said lot; thence north along the west line of said Lot No. 99 thirteen chains and eighty-eight links (13.88) northerly to the northwest corner of said Lot No. 99 to the place of beginning, containing Fifty-six acres of Land be the same more or less.

Excepting and reserving that portion of premises as recorded in the Erie County Clerk's Office in Liber 7819 of deeds at page 307.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Marilla, County of Erie and State of New York, being part of Lots Numbers One Hundred Thirty-four (134) and One Hundred Thirty-five (135), Township Ten (10), Range Five (5) of the Buffalo Creek Reservation, bounded and described as follows:

BEGINNING at a point in the center line of Four Rod Road, said center line also being the east line of Lots Numbers One Hundred Thirty-four (134) and One Hundred Thirty-five (135), distant One Hundred Thirty and fifty hundredths (130.50) feet south of the north line of Lot Number One Hundred Thirty-Five (135), said point of beginning being the northeasterly corner of lands conveyed to David L. Dietl and Donna Rae his wife by deed recorded in the Erie County Clerk's Office in Liber 9836 of Deeds at Page 152, thence westerly at an exterior angle of $84^{\circ} 13'$ a distance of Three Hundred Fifty (350) feet; thence continuing westerly at an interior angle of $172^{\circ} 26' 40''$ a distance of One Thousand Four Hundred Fifty-one and seventy-nine hundredths (1,451.79) feet; thence northerly parallel with the center line of Four Rod Road a distance of Two Hundred Two and forty-one hundredths (202.40) feet; thence easterly at an interior angle of $88^{\circ} 13' 40''$ a distance of One Thousand Eight Hundred (1,800) feet to a point in the center line of Four Rod Road distance One Hundred Sixty-seven and thirteen one-hundredths (167.13) feet northerly from the point of beginning; thence southerly along the center line of Four Rod Road a distance of One Hundred Sixty-seven and thirteen one-hundredths (167.13) feet to the point of beginning
SBL: 157.00-3-18.12

WHEREAS, any expense of creating the Extension are to paid for

by the property owners, in the Extension with no new water lines to be constructed but with the property owners in the Extension to pay their proportionate share of the cost of the water lines originally constructed in connection with Water District No. 3 and their proportionate share of the costs of maintenance of the District as extended by the Extension, which shall be paid by the assessment, levy and collection of special assessments upon the several lots and parcels of land within the Extension, which the Town Board shall determine and specify to be especially benefitted thereby, so much upon and from each as shall be in just proportion to the benefit conferred upon the same;
Now Therefore, be it

ORDERED, that a meeting of the Town Board of the Town be held at the Town Hall, 1740 Two Rod Road, Marilla, New York, on the 11th day of August, 2005 at 7:30 o'clock P.M. (Prevailing Time), to consider the establishment of the proposed Extension, as herein referred to, and to hear all persons interested in the subject thereof, concerning the same and for such other action on the part of the Town Board with relation thereto as may be required by law, and be it

FURTHER ORDERED, that the Town Clerk publish at least once in the "ALDEN ADVERTISER" and in the "ELMA REVIEW", two newspapers having a general circulation in the Town and designated as the official newspapers of the Town for this publication, post on the sign board of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law, a copy of this Order, certified by the Town Clerk, the first publication and said posting to be not less than ten (10) nor more than twenty (20) days before the day designated herein for said public hearing, and mail notice to all property owners in the proposed Extension; and be it

FURTHER ORDERED, that the Town Clerk file a certified copy of this Order with the Comptroller of the State of New York on or about the date of publication of this Order.

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Gertz – Aye

Councilman Specht – Aye

Supervisor Foss - Aye

Motion Carried.

Report of Town Officials

Building Inspector John Fronczek submitted a written report with 14 building applications received with fees totaling \$4,119.00, 14 building permits issued with a total value of \$2,327,700.00, 10 inspections were made and 2 complaints were received for the month of June 2005. The Code Enforcement log indicates a total 190 activities.

Planning Board minutes are posted and they will be meeting on Thursday July 21, 2005 at 7:00 p.m.

The Conservation Advisory minutes have been received and posted.

Town Historian Hubert Kutter reported that he has been working on some genealogy requests; one was from Hawaii. They wanted information on their ancestors the Austins and Bookbinders. He was also contacted by someone from North Carolina wanting information on John Connors which was their Great Grandfather. He stated that the Historical Society has been working on preparing for the Cival War Re-enactment scheduled for August 6th & 7th. This Sunday there will be antique cars (Model A's) from members of the Model A Restoration Club in Elma parked at the Town Hall around 12:00 p.m., the owners will be touring the General Store and the Museum.

Open Board Presentations

Councilman Specht commented how nice it was to see the young man (boy scout) in the audience.

Supervisor Foss wanted to thank the Boy Scouts and the Kiwanis for the new sign and landscaping at the intersections of Two Rod Road and Clinton Street and Jamison Road and Two Rod Road. He also commented on the picture in the newspaper of George Pfitzinger raking hay, his property is in the PACE Program.

Motion: Councilman Gertz moved, seconded by Councilman Specht to approve the claims as follows:

General Fund Claims, Vouchers 246-327	\$ 41,835.99
Highway Fund Claims, Vouchers 114-135	\$ 53,313.00
Special Districts	
Sanitation (SR), Vouchers 59-76	\$ 23,215.12
Special Fire Vouchers 5-7	\$ 16,734.15
Water District #2, Vouchers 17-21	\$ 6,359.33
Water District #3 Vouchers 7-9	\$ 4,201.80
Water District #4 Voucher 6-8	\$ 2,882.80
Community Develop. PACE Voucher 3	\$ 64.33
Community Develop. HUD	\$

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to adjourn the meeting at 8:05 p.m. Motion Carried.

Respectfully submitted,

_____Town Clerk

_____Supervisor

_____Councilman

_____Councilman

_____Councilman

_____Councilman